

U.S. DISTRICT COURT
Southern District of New York

AMIRAH MERCER

Plaintiffs,

v.

VIACOMCBS/PARAMOUNT

Defendants.

Case No.: 22-civ-6322

THIRD AMENDED COMPLAINT

JURY TRIAL DEMANDED

Judge: Hon. Lora G. Schofield

Date Action filed: 10/3/2024

Date set for trial: _____

TO THE HONORABLE LORA G SCHOFIELD:

1. Plaintiff Amirah Mercer (“Plaintiff”), by and through her undersigned counsel, respectfully moves this Court for leave to file an Amended Complaint in the above-captioned matter pursuant to Rule 15(a)(2) of the Federal Rules of Civil Procedure, and in support of this motion states as follows:

FACTUAL BACKGROUND

2. Plaintiff filed the initial Complaint in this action against Defendant **ViacomCBS** for violations of the **Americans with Disabilities Act (ADA)**, 42 U.S.C. § 12101 *et seq.*, the **New York State Human Rights Law (NYSHRL)**, N.Y. Exec. Law § 290 *et seq.*, and the **New York City Human Rights Law (NYCHRL)**, N.Y.C. Admin. Code § 8-101 *et seq.*, related to Defendant’s failure to accommodate Plaintiff’s disability and retaliation for her requests for accommodation.
3. Plaintiff now seeks to amend her Complaint to clarify and include additional facts and claims that have arisen based on further investigation, including but not limited to:
 - a. The incorporation of **vaccine allergies** as a recognized medical condition under federal and state law, establishing further grounds for accommodation.
 - b. The inclusion of **tribal holistic health practices** and recognition of **tribal health providers** in support of Plaintiff’s medical contraindications to vaccines.
 - c. Further elaboration on the **retaliatory actions** by Defendant subsequent to Plaintiff’s request for accommodation, providing additional detail to support Plaintiff’s claims under the ADA, NYSHRL, and NYCHRL.

II. LEGAL STANDARD

4. **Rule 15(a)(2)** of the Federal Rules of Civil Procedure provides that “[a] party may amend its pleading only with the opposing party’s written consent or the court’s leave. The court should freely give leave when justice so requires.”
5. Courts in the **Second Circuit** consistently favor granting leave to amend complaints when justice requires, particularly in the absence of undue delay, bad faith, or prejudice to the opposing party (**Foman v. Davis**, 371 U.S. 178, 182 (1962); **Williams v. Citigroup Inc.**, 659 F.3d 208, 212-13 (2d Cir. 2011)).

III. ARGUMENT

6. The proposed amendments are based on additional facts that have come to light and are necessary to clarify Plaintiff’s claims. These amendments are neither frivolous nor made in bad faith.
7. The proposed amendments will not unduly prejudice Defendant, as this case is in its early stages, and no significant discovery or pre-trial proceedings have been conducted that would be disrupted by this amendment.
8. Allowing the amendment will ensure that all relevant facts and legal arguments are properly before the Court, allowing for a complete and just adjudication of Plaintiff’s claims.
9. This motion is made in good faith and without undue delay. Plaintiff seeks to include the following key additions in the Amended Complaint:
 - a. Expanded factual allegations concerning Plaintiff’s **COVID vaccine allergy**, which necessitates her request for accommodation.
 - b. Legal recognition of **tribal holistic health practitioners** as legitimate healthcare providers, consistent with Plaintiff’s **cultural and medical background**.
 - c. Clarification of Defendant’s ongoing **retaliation** against Plaintiff for asserting her rights under the ADA, NYSHRL, and NYCHRL.

IV. CONCLUSION

10. For the reasons stated above, Plaintiff respectfully requests that the Court grant this **Motion to File an Amended Complaint** and allow Plaintiff to file the proposed Third **Amended Complaint**

Dated: October 03, 2024

Amirah Mercer, all rights reserved

Amirah Mercer

Pro se Plaintiff

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing instrument was forwarded electronically.

Date: October 3, 2024

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Amirah Mercer

Pro Se Plaintiff